



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 3, 1992

Ms. Annette Jones  
Police Legal Advisor  
City of Waco  
Legal Services  
P. O. Box 2570  
Waco, Texas 76702-2570

OR92-365

Dear Ms. Jones:

On behalf of the City of Waco, you ask whether information concerning a juvenile shooting victim is excepted from required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID # 15077.

The City of Waco has received a request for disclosure of all information concerning "the name of the victim of a shooting which occurred at 5 p.m. Jan. 10, 1992 at an apartment at 1008 Calumet Avenue." Exh. A. The city has submitted for our review an offense report which states the names of witnesses, the victim, the alleged offender, and a factual description of the referenced offense. Exh. B. The victim of the shooting is a juvenile. The city claims that the names of juvenile crime victims are excepted from required public disclosure by Open Records Act section 3(a)(1) pursuant to the common law and constitutional right to privacy.

Open Records Act section 3(a) states that "[a]ll information collected, assembled, or maintained by or for governmental bodies . . . is public information and available to the public during normal business hours of any governmental body," except for information which meets one of the Act's exceptions. Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision."

In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 179 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), the court held that information found on the first page of a police offense report, including "identification and description of complainant," should

ordinarily be disclosed. Under section 3(a)(1) information may be withheld on the basis of common law privacy if it is highly intimate or embarrassing and its release would be highly objectionable to a person of ordinary sensibilities, and there is no legitimate public interest in its disclosure. Open Records Decision Nos. 579 at 2, 562 at 9, 561 at 5, 554 at 3 (1990); 438 at 6 (1986); 409 at 2 (1984); 339 at 2 (1982). In Open Records Decision 409, at 2, relying on *Houston Chronicle*, this office ruled that the names of burglary victims were not excepted from public disclosure by the common law right to privacy; this office also noted that "[v]ictims of sexual abuse are the only persons thus far excepted, on privacy grounds, from the rule of *Houston Chronicle* that requires disclosure of the names of complainants." We have previously ruled that the identity of shooting victims is not *per se* excepted pursuant to the right to privacy. See Open Records Decision No. 422 (1984) at 2. We have also previously ruled that in cases of physical abuse of a child, the public interest overcomes privacy interests. See Attorney General Opinion JM-81 (1983). We are compelled to conclude, on the basis of *Houston Chronicle* and our prior opinions, that information about the identity of a shooting victim is not highly intimate or embarrassing, the age of the victim notwithstanding, and therefore that such information is not protected by common law privacy rights.

Section 3(a)(1) protects from disclosure matters which are deemed private pursuant to constitutional law, as well as common law. In *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668, 677-78 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), the Texas Supreme Court held that constitutional privacy, and thus section 3(a)(1), protects matters within previously recognized and protected "zones of privacy"; however, these zones of privacy include matters relating to marriage, procreation, contraception, family relationships, child rearing, and education. The identity of a shooting victim does not fall within these zones of privacy.

You note that Texas Family Code sections 34.08 and 51.14 reflect a concern for juvenile privacy. You suggest that this office should extend the policy behind these provisions to the present case and declare that the identity of juvenile crime victims should be deemed confidential.

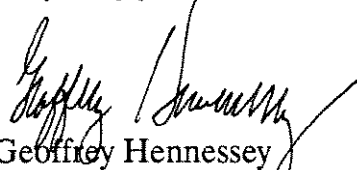
We note that neither of the cited Family Code provisions is applicable in the present case. Section 34.08 states that the investigative files of reported child abuse or neglect maintained by the Texas Department of Human Services are deemed confidential. See also TEX. FAM. CODE §§ 34.01-.05. The records at issue are not records of the Department of Human Services and thus this statute is not applicable.

Section 51.04 provides generally that juvenile court records shall be confidential. However, the juvenile court's jurisdiction depends on the age of the alleged offender, not that of the victim. *See* FAM. CODE §§ 51.02(1), 51.03-.04. There is no indication in the present case from the records furnished to this office that this is a matter within the juvenile court's jurisdiction, and thus this provision does not appear to be applicable.\* As for your suggestion that we extend the policy behind these Family Code provisions to the present case, we have no authority to fashion such a rule; this is a matter for the legislature.

There is no statutory authority deeming the identity of juvenile shooting victims confidential; nor is such information confidential pursuant to the constitutional or common law right to privacy. Therefore, the requested information is not excepted pursuant to section 3(a)(1).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have any questions about this ruling, please refer to OR92-365

Very truly yours,



Geoffrey Hennessey  
Assistant Attorney General  
Opinion Committee

GH/lmm

Ref.: ID# 15077  
ID# 15420

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\* We note from the records furnished for our review that the alleged offender was older than seventeen years old at the time of the offense. Thus it does not appear that this case would be within a juvenile court's jurisdiction. *See* FAM. CODE secs. 51.02(1) & 51.04.

cc: Mr. Brian Blansett  
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